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In re Application of :
KIM et al. :
Application No.: 10/540,919 : DECISION
PCT No.: PCT/KR03/02744 :
Int. Filing Date: 13 December 2003 :
Priority Date: 30 December 2002 :
Attorney Docket No.: Q88281 :
For: ELECTRIC ENERGY STORAGE DEVICE AND :
METHOD OF CHARGING AND DISCHARGING THE SAME:

This is a decision on applicants' "Petition Under 37 CFR §1.47(a)" filed 13 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 December 2003, applicants filed international application PCT/KR03/02744, which designated the United States and claimed a priority date of 30 December 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 June 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation of the International Application, and an assertion of small entity status.

On 12 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

On 13 March 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors signed by six of the seven joint inventors and a declaration of facts by Lee Si Hyung.

DISCUSSION

The declaration of facts by Lee Si Hyung states that he was told by the nonsigning inventor's family "that she was abroad and no definite dates of return were known to the family." MPEP § 409.03(d), item I, states that the "fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47." In this instance, the nonsigning inventor Hee Young Lee is out of town and thus a petition under 37 CFR 1.47 is not applicable. Also, the last attempt to contact Hee Young Lee was eleven months ago.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**.

Since the reply filed 13 March 2006 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Extensions of this time period may be granted under 37 CFR 1.136(a).

Failure to timely file a proper response will result in **abandonment** of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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